

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

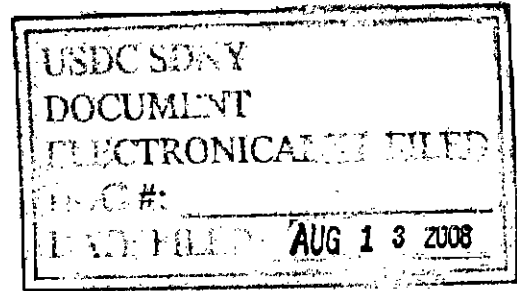
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ARJENT SERVICES, LLC

Plaintiff,

-v-

JOSEPH SCIRE, et al.,

Defendants.
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No.08 Civ.6510 (LTS)(GWG)

ORDER

WHEREAS, this action was commenced by the filing of a Complaint on July 22, 2008; and

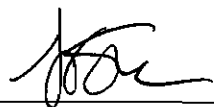
WHEREAS, the Court has reviewed such Complaint to ascertain the basis for assertion of subject matter jurisdiction in this court; and

WHEREAS, such Complaint asserts that the Court has jurisdiction based on diversity of citizenship (28 U.S.C. § 1332), but diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) requires a demonstration that the action is between citizens of different states and, with respect to the Defendants, the Complaint alleges merely that the Defendants reside in South Carolina; and, where one party is a limited liability company (LLC), the LLC's citizenship is the same as that of each member, Strother v. Harte, 171 F. Supp. 2d 203, 205 (S.D.N.Y. 2001), and, with respect to the Plaintiff, the Complaint fails to allege the citizenship of the LLC members; and

WHEREAS, "subject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power," E.R. Squibb & Sons v. Accident & Cas. Ins. Co., 160 F.3d 925, 929 (2d Cir. 1998) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action;" it is hereby

ORDERED, that plaintiff shall, no later than **August 25, 2008**, file and serve a Supplement to the Complaint containing allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court or otherwise show cause in writing as to why this case should not be dismissed for lack of subject matter jurisdiction.

Dated: New York, New York
August 13, 2008



LAURA TAYLOR SWAIN
United States District Judge